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**TO: Economic Support Supervisors
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**FROM: Amy Mendel-Clemens
CARES Call Center
Policy & Systems Communications Section**

BWP/BIMA OPERATIONS MEMO

No.: 02-64
File: 2410
Date: 11/25/2002

Non W-2 ☐ W-2 ☒ CC ☐

PRIORITY: High

SUBJECT: W-2 and Incarceration

CROSS REFERENCES: W-2 Manual, Chapters 2 and 11

EFFECTIVE DATE: Immediately

PURPOSE

This memo provides guidance to W-2 agencies regarding how incarceration impacts on a W-2 participant's eligibility. The memo also provides guidance regarding incarcerated W-2 participants ordered into the Huber Program.

BACKGROUND

The Division of Hearings and Appeals (DHA), Department of Administration, reviewed three W-2 agency fact findings and determined that being incarcerated was beyond the control of the W-2 participant and the hours the participant missed should be excused under the good cause exemption. The Division of Workforce Solutions (DWS) and Department of Workforce Development (DWD) Office of Legal Counsel disagreed with DHA's determination. In a decision issued on February 27, 2002, DHA requested a clarification in W-2 policy.

POLICY

NON-PARTICIPATION AND INCARCERATION

If the incarceration renders the individual incapable of participating and/or retaining care and control of his/her child(ren) for more than 30 consecutive calendar days, then he/she is no longer eligible for W-2 benefits. The individual would no longer be eligible because, under W-2, a custodial parent must reside with his or her dependent children. The 30-day timeframe allows for short-term incarceration without having to disenroll and then re-enroll the participant; this could disrupt the participant's activities, payments and childcare. W-2 agencies are encouraged to work with child welfare agencies to determine safety of the children. A W-2 participant would not be eligible for the program if another adult was receiving kinship care for all of the participant's children. A W-2 participant may retain care and control over one or more children while his/her other children are living in another household receiving kinship care; this parent would remain eligible for W-2.

GOOD CAUSE/ PAYMENT FOR INCARCERATED PARTICIPANTS

Generally, when the W-2 participant is unavailable to attend assigned activities due to an incarceration of 30 days or less, good cause would not be granted for missed hours. In most instances, incarceration is a result of actions taken by the participant, not a situation beyond the control of the participant. If an employed individual misses work due to incarceration, the individual would be penalized in some way, such as a reduction in pay for missed hours or termination. W-2 participants should be sanctioned for missed hours due to incarceration similar to an employed individual. The participant would receive payment for any activities completed.

Example: Amy, a W-2 participant, was arrested for unpaid fines from her drunk driving conviction. Amy stated she was unable to pay the fines. Amy served 20 days in jail because she was unable to pay the tickets. Amy's hours were sanctioned for the days she was unable to participate. Amy received payment for the days she was able to participate in her W-2 assigned activities.

There may be instances where extenuating circumstances apply and the person is not responsible for the time they are incarcerated. The FEP must determine this on a case by case basis and document the reason in case comments.

Example: Ken was arrested on suspicion of drug possession. After the preliminary hearing, the charges were dropped and he was released. Ken served 14 days until the charges were dropped. Ken submitted a statement from the court to the FEP. The FEP gave him good cause for the hours because the charges were dropped.

HUBER PROGRAM AND W-2

In some cases the judge orders an individual into the Huber Program. The Huber Program is primarily a work release program although a judge can also release parents from jail to care for their child(ren). The judge outlines the permitted activities. An Employability Plan may be adjusted to reflect the change in the family's living situation and the activities could be modified

to allow a parent to participate while they are enrolled in the Huber Program. The participant must maintain care, custody and control of his/her child(ren) (i.e., no other relative receives kinship care for the child/ren).

Example: Elizabeth, a W-2 participant is ordered into the Huber Program for 3 months. The Judge indicated Elizabeth would be released during the day to care for her children and participate in specified work program activities. Elizabeth's mother is available to stay with the children at night.

Elizabeth called her FEP explaining the changes in her family's situation. The FEP altered the employability plan to reflect the changes in circumstances. Elizabeth's updated employability plan includes GED classes for 4 hours a week at the Job Center and clerical work site activities at the Job Center for 8 hours a week where the participant can use the onsite child care.

As a current condition of non-financial eligibility for W-2, a participant may not be in violation of probation and parole orders. A FEP should treat Huber in the same fashion. A participant must cooperate with jail staff and cooperate with jail rules. Maintaining W-2 eligibility for individuals released to care for one or more of his/her child(ren) and who participate in allowable activities permits the family to maintain housing and other necessary items to sustain a safe and secure environment for the child(ren).

PROCEDURE

CARES PROCESSING TO CLOSE A CASE DUE TO INCARCERATION

A new closure code has been added to CARES. This code is found on screen CURS (Reason Code Summary) and is reason code number 523.

The new code is only available as a manual override code. The closure code must be entered on screen AGOE after running eligibility and before confirming the W-2 AG. Listed below are the steps that must be taken to enter the closure code.

1. End date the W-2 placement for the incarcerated individual on ACWI. If another person in the group can be placed in an employment position, no further steps need to be taken to close the W-2 AG.
2. Run SFED/SFEX. The W-2 AG should be failing with reason code 260 - W-2 services have ended. DO NOT CONFIRM THE W-2 AG.
3. Now tran to screen AGOE. PF8 to the W-2 sequence. Complete the following fields:

Eligibility Result Override: Must be entered as F (Fail)

Reasons Override: Enter reason code 523

Override Reason CD: Enter code SYS or POL.

AGOE ASSISTANCE GROUP ELIGIBILITY RESULTS OVERRIDE 10/09/02 10:07
CASE: 6700236061 CAT: WW C SEQ: 01 WORKER: XCT545 XCT546 M WELCH
LAST UPDATED: 10 09 02 CASE STATUS: OPEN CASE MODE: REVIEW

DC: ____ AG STATUS: O OPEN
ELIGIBILITY RESULT: S PASS ELIGIBILITY RESULT OVERRIDE: F PASS
REASONS: REASONS OVERRIDE: 523 ____

MR REASON: NO

ELIG BEGIN DATE: 04 03 02 ELIG BEGIN DATE OVERRIDE: 04 03 02
ELIG END DATE: ELIG END DATE OVERRIDE: ____
PERF BEGIN DATE: 10 16 02
PERF END DATE:
PAYMENT BEGIN DATE: 11 01 02
PAYMENT END DATE:

W-2 PAYMENT: 673.00 W-2 PAYMENT OVERRIDE: 673.00

SUPERVISOR ID: ____ IS OVERRIDE APPROVED(Y/N)? : ____
COMMENT: _____

NEXT TRAN: ____ PARMS: 6700236061_____

At this point, the override requires supervisory approval unless the FEP has a security level of 50 or higher. Once the override is approved by a supervisor, the W-2 AG closure must be confirmed on AGECE, do not re-run SFED/X .

If the FEP has the ability to approve his/her own overrides, follow the procedures above, and after entering the "Override Reason CD" and a "Y" for approval, hit enter. Then go back to AGOE and enter "Y" in the "is override approved" field. This procedure will ensure that the W-2 participant receives the appropriate closure reason on his/her Notice of Decision.

NOTE ➤ Closure reason codes entered on AGOE will disappear the next time SFED/SFEX is run. This should not be a problem because the participant was already notified of the incarceration closure when the W-2 AG initially closed.

REASON CODE TEXT

Short text will appear on screen EEND. The short text is: *W-2 case closed due to incarceration for more than 30 days.*

NOTICE LANGUAGE

The following statement will be on the Notice of Decision: *Your W-2 case closed because the individual in the paid placement has been incarcerated for more than 30 days and was unable*

to participate in assigned activities. Please contact your W-2 agency with questions or if you wish to re-apply for the W-2 program.

CONTACTS

BIMA CARES Information & Problem Resolution Center

Email: carpolcc@dwd.state.wi.us
Telephone: (608) 261-6317 (Option #1)
Fax: (608) 266-8358

Note: Email contacts are preferred. Thank you.